

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Rachel Buhner	Team: Squad #16	CCRB Case #: 201410857	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 10/21/2014 5:45 PM	Location of Incident: Neptune Avenue and Shell Road	Precinct: 60	18 Mo. SOL 4/21/2016	EO SOL 4/21/2016	
Date/Time CV Reported Wed, 10/22/2014 8:07 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Wed, 10/22/2014 8:07 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. DT3 Mike Civil	02114	935092	NARCBBS
2. DT3 John Rivera	00452	932207	NARCBBS
3. SGT Clifford Strong	04309	939538	NARCBBS
4. DT3 David Marconi	6405	940420	NARCBBS
5. DT3 Christophe Ottomanelli	04621	930892	NARCBBS
6. An officer			NARCBBS

Officer(s)	Allegation	Investigator Recommendation
A.SGT Clifford Strong	Abuse: Sgt. Clifford Strong stopped the car in which § 87(2)(b) and § 87(2)(b) was an occupant.	
B.DT3 David Marconi	Abuse: Det. David Marconi stopped the car in which § 87(2)(b) and § 87(2)(b) were occupants.	
C.DT3 Christophe Ottomanelli	Abuse: Det. Christopher Ottomanelli stopped car in which § 87(2)(b) and § 87(2)(b) were occupants.	
D.DT3 Mike Civil	Abuse: Det. Mike Civil stopped the car in which § 87(2)(b) and Brandon § 87(2)(b) were occupants.	
E.DT3 John Rivera	Abuse: Det. John Rivera stopped the car in which § 87(2)(b) and Brandon § 87(2)(b) were occupants.	
F.DT3 Mike Civil	Abuse: Det. Mike Civil refused to provide his name to § 87(2)(b)	
G. An officer	Abuse: An officer searched the car in which § 87(2)(b) and § 87(2)(b) were occupants.	
H.DT3 John Rivera	Abuse: Det. John Rivera questioned § 87(2)(b)	
I.DT3 John Rivera	Abuse: Det. John Rivera searched § 87(2)(b)	
J.DT3 John Rivera	Abuse: Det. John Rivera frisked § 87(2)(b)	
K.DT3 Mike Civil	Abuse: Det. Mike Civil threatened § 87(2)(b) with the use of force.	

Officer(s)	Allegation	Investigator Recommendation
L.DT3 Mike Civil	Discourtesy: Det. Mike Civil spoke rudely to § 87(2)(b)	
§ 87(4-b), § 87(2)(g)		
§ 87(4-b), § 87(2)(g)		
§ 87(4-b), § 87(2)(g)		

Case Summary

On October 21, 2014, § 87(2)(b) and Aleksander § 87(2)(b) were driving in the vicinity of Shell Road and Neptune Avenue in Brooklyn when Sgt. Clifford Strong, Det. David Marconi, Det. Christopher Ottomanelli, who were in a gray mini-van, and Det. Mike Civil and Det. John Rivera, who were in a Toyota Camry, allegedly conducted a stop of their vehicle (**Allegations A, B, C, D, and E**). Det. Civil and Det. Rivera approached the car, and asked § 87(2)(b) and § 87(2)(b) to exit. They complied, and while outside and speaking amongst each other, § 87(2)(b) asked Det. Civil for his name, which Det. Civil allegedly refused to provide (**Allegation F**).

While still outside the car, the vehicle was allegedly searched (**Allegation G**) by an officer. After the search was completed and nothing was recovered, Det. Rivera allegedly requested § 87(2)(b)'s wallet and subsequently searched it, as well as frisked him (**Allegations H, I, and J**). Det. Civil and Det. Rivera then returned to their vehicle, and Det. Rivera instructed § 87(2)(b) to get back inside the vehicle. § 87(2)(b) took a photo of the Camry from where he was standing. In response, Det. Rivera allegedly said, "If you get out of the car, I'm going to break your fucking legs" (**Allegations K and L**).

Det. Rivera and Det. Civil remained in their vehicle and a short while later a marked police car arrived and delivered summonses to Det. Civil and Det. Rivera. Det. Civil and Det. Rivera then exited their vehicle and handed § 87(2)(b) and § 87(2)(b) their summonses; both were cited for § 87(2)(b), and § 87(2)(b) was also cited for § 87(2)(b).

This case was originally assigned to Inv. Benjamin Wurtzel, and was then reassigned to Inv. Chris Mills on January 7, 2015. It was reassigned to the undersigned investigator upon Inv. Mills' departure from the agency on April 3, 2015.

Mediation, Civil and Criminal Histories

- On April 6, 2015, a Notice of Claim inquiry was submitted to the New York City Office of the Comptroller, and as of May 12, 2015, no Notice of Claim had been filed (encl. 7C).
- Mediation was offered to § 87(2)(b) however, he rejected it § 87(2)(g)
- § 87(2)(b)

Civilian and Officer CCRB Histories

- Det. Jon Rivera has been a member of the NYPD for 11 years, and has had 15 previous CCRB allegations involving five cases with no substantiated allegations. § 87(2)(g)
- Det. Mike Civil has been a member of the NYPD for 10 years, and has had 65 previous CCRB allegations involving 22 cases with three substantiated allegations; one for physical force, one for a vehicle stop, and one for a discourtesy. For all three substantiated allegations, the Board recommended charges; however, Det. Civil was found not guilty by the NYPD for the physical force, did not face disciplinary action for the vehicle stop, and received Command Discipline B for the discourtesy. Det. Civil has multiple allegations relevant to this case, including three frisks of a person, three threats of physical force, four vehicle stops, two vehicle searches, 11 discourtesies – word, and one refusal to provide name and shield (encl. 1A-1E).

- Sgt. Clifford Strong has been a member of the NYPD for 9 years, and has had 10 previous CCRB allegations involving four cases with no substantiated allegations. He has two previous allegations of a vehicle stop (encl. 1G).
- Det. David Marconi has been a member of the NYPD for 9 years, and has had 12 previous CCRB allegations involving six cases with three substantiated allegations, one for a frisk, one for search of a person, and one for a stop of a person. The Board recommended Charges for all three; however, the NYPD dispositions are still pending. § 87(2)(g)
- Det. Christopher Ottomanelli has been a member of the NYPD for 12 years, and has had nine previous CCRB allegations involving four cases with no substantiated allegations. § 87(2)(g)
- This is the first complaint involving § 87(2)(b) and § 87(2)(b) (2A-2B).

Finding and Recommendations

Allegations Not Pleaded

As a result of the incident, § 87(2)(b) was issued a summons for § 87(2)(b), which he disputed. According to Det. Rivera, § 87(2)(b) was issued the summons for discourteous language, exiting the vehicle without instruction to do so, excessive noise, and “causing a scene”. § 87(2)(g)

Explanation of Subject Officer Identification

Det. Civil issued summonses to both § 87(2)(b) and § 87(2)(b) and he was identified via this manner (encl. 3M-3O). His partner, Det. Rivera, was identified via roll call, and Sgt. Strong, Det. Ottomanelli, and Det. Marconi were identified via roll call, based on a photo of their vehicle submitted by the complainants (encl. 3Q). Furthermore, all officers, aside from Sgt. Strong, acknowledged being present for the incident, though Det. Ottomanelli and Det. Marconi denied interacting with § 87(2)(b) and § 87(2)(b)

Police Documents

- § 87(2)§ 87(2)(b) a photograph of the Toyota Sienna that was on scene, and the vehicle was identified via Fleet Services as being assigned to Brooklyn South Narcotics, vehicle identification number 48113 (encl. 5A)
- The officers assigned to the above-referenced vehicle were identified via the Tactical Plan for that day (encl. 5H).

Recommendations

Allegation A—Abuse of Authority: Sgt. Clifford Strong stopped the car in which § 87(2)(b) and Aleksander § 87(2)(b) were occupants.

Allegation B—Abuse of Authority: Det. Christophe Ottomanelli stopped the car in which § 87(2)(b) and Aleksander § 87(2)(b) were occupants.

Allegation C—Abuse of Authority: Det. David Marconi stopped the car in which § 87(2)(b) and Aleksander § 87(2)(b) were occupants.

It remains in dispute if Sgt. Strong, Det. Ottomanelli, and Det. Marconi participated in the car stop of § 87(2)(b) and § 87(2)(b).

In his statement, § 87(2)(b) stated that § 87(2)(b) § 87(2)(b) him up outside of his residence, located at § 87(2)(b) § 87(2)(b) in Brooklyn. He immediately entered the car, sat in the passenger seat, and put on his seat belt. § 87(2)(b) who was the driver, got into the left lane of Neptune Avenue behind a dark colored mini-van. He immediately heard a brief siren, originating from a black Toyota Camry, which was driving behind them. However, neither occupant assumed that the siren was directed towards them, nor were they aware that the Camry was a police vehicle.

§ 87(2)(b) continued to drive for approximately a half block, at which point the mini-van came to an abrupt halt in front of them, forcing § 87(2)(b) to stop as well. At the same time, the Camry came to a stop behind them. Two officers from the mini-van, identified via the investigation as Det. Marconi and Det. Ottomanelli, exited their vehicle, but did not approach them. Two officers, Det. Civil and Det. Rivera, exited the Camry, and approached their vehicle.

According to § 87(2)(b)'s testimony, after the mini-van had stopped in front of them and the Camry had stopped behind them, Det. Ottomanelli and Det. Marconi exited the mini-van, along with Det. Civil and Det. Rivera exiting the Camry. However, Det. Ottomanelli and Det. Marconi did not approach § 87(2)(b) and § 87(2)(b) until after they had already been removed from the car by Det. Rivera and Det. Civil.

At an unknown time during the stop, § 87(2)(b) was able to take photographs of both the mini-van and the Toyota Camry, which he provided to the CCRB. Both cars are in the parked position, and the civilians' car is between them, with the mini-van in front and the Camry behind. The backdoor of the mini-van is open, and the license plate is visible.

In their respective statements, both Det. Ottomanelli and Det. Marconi stated that they were conducting their patrol when they happened to drive by and observe Det. Civil and Det. Rivera in the midst of a car stop. Det. Ottomanelli, the operator of their vehicle, stopped and parked the mini-van in front of the civilians' car. In his statement, Sgt. Strong denied having any memory of the incident, or being present at the location whatsoever.

Det. Ottomanelli exited the vehicle and asked Det. Civil and Det. Rivera if they were okay, and they indicated that they were. He then informed them that if they need any assistance to call his team, and he then re-entered the vehicle and the officers left the scene.

Det. Ottomanelli could not recall if either Sgt. Strong or Det. Marconi exited the vehicle, and he did not recall if he spoke with Det. Civil or Det. Rivera when asking if they were okay. He was not made aware of what was occurring or why the vehicle had been stopped, and he believed that the civilians were still inside the vehicle while he was on scene. He did not have any interaction with the civilians, and neither did Det. Marconi or Sgt. Strong.

§ 87(2)(g)
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§ 87(2)(g)

Allegation D—Abuse of Authority: Det. Mike Civil stopped the car in which § 87(2)(b) and Aleksander § 87(2)(b) were occupants.

Allegation E—Abuse of Authority: Det. John Rivera stopped the car in which § 87(2)(b) and Aleksander § 87(2)(b) were occupants.

Although it is undisputed that Det. Civil and Det. Rivera stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants, it remains in dispute the circumstances which lead to the stop.

§ 87(2)(b) the driver, and § 87(2)(b) the passenger, both testified that they were wearing their seatbelts and had not committed any traffic infractions when they were stopped by Det. Civil and Det. Rivera.

In his statement, Det. Civil indicated that he observed § 87(2)(b)'s vehicle make multiple unsafe lane changes without signaling, and this statement is corroborated by Det. Rivera. Det. Rivera testified that Det. Civil made the determination to stop the vehicle, and Det. Civil indicated that after doing so and upon approaching it, both detectives observed that neither passenger was wearing their seatbelts. Det. Civil then issued both occupants summonses for § 87(2)(b), and gave them a verbal warning regarding the unsafe lane changes.

§ 87(2)(g)

Allegation F— Abuse of Authority: Det. Mike Civil refused to provide his name to § 87(2)(b)

In his statement, § 87(2)(b) testified that after they were instructed to exit the vehicle, he asked Det. Civil for his name. Det. Civil was standing approximately one foot away, and he did not acknowledge the request and became irate. He then asked § 87(2)(b) for his identification, which he had previously provided and had been returned to him by Det. Civil. § 87(2)(b) testified that he heard § 87(2)(b) ask Det. Civil for his name and shield number immediately after exiting the vehicle, but that Det. Civil did not reply.

Det. Civil acknowledged that § 87(2)(b) asked him for his “information”, which he understood to mean his name and shield number. In response, he told § 87(2)(b) to wait until he and Det. Rivera were done speaking to § 87(2)(b) and then later said to § 87(2)(b) “This is my shield number: 2114. My name is Civil”, and he pointed to his shield as he stated this. § 87(2)(b) replied that he needed to write it down, and Det. Civil responded that it was on the summons. § 87(2)(b) appeared satisfied with this answer, and he did not ask again.

When § 87(2)(b) filed this complaint via the CCRB website, he provided Det. Civil’s shield number as 2114, which is in fact Det. Civil’s shield number (encl. 2E). Although § 87(2)(b) would have been able to obtain Det. Civil’s name and tax identification number via the summonses he received, the shield number would not have been listed. Furthermore, § 87(2)(b) did not take any additional steps after the incident from any other sources in attempts to obtain additional information regarding either detective.

§ 87(2)(g)

Allegation G— Abuse of Authority: An officer searched the vehicle in which § 87(2)(b) and Aleksander § 87(2)(b) were occupants.

It remains in dispute if § 87(2)(b)'s vehicle was searched after it was stopped.

According to § 87(2)(b) after he and § 87(2)(b) were asked to exit the car, one of the officers from the mini-van, either Det. Ottomanelli or Det. Marconi, conducted a search of his vehicle by leaning inside the driver's side of the vehicle and shinning his flashlight inside. This lasted approximately 40 seconds, and nothing was removed from the vehicle. § 87(2)(b) did not know if the glove compartment or center console were opened. After the search was completed, both detectives returned to the mini-van and left the scene.

However, § 87(2)(b) testified that upon exiting the vehicle at the detectives' request, Det. Rivera entered through the driver's side door and searched the car. § 87(2)(b) observed Det. Rivera look under the driver's seat, as well as open the glove compartment and center console. Nothing was removed from the vehicle, and the search lasted approximately two minutes.

Both Det. Ottomanelli and Det. Marconi deny conducting a search of the vehicle, and testified that they did not see one occur. Det. Civil stated that the occupants of the vehicle were never instructed to exit, and that they remained in the car throughout the entire incident, aside from when § 87(2)(b) exited on his own accord and was subsequently instructed to return to and remain in the vehicle. Det. Rivera also testified that neither civilian was instructed to exit the vehicle, and stated that the vehicle was not searched at any point, nor was the luggage area examined or an inside compartment opened.

§ 87(2)(g)

Allegation H— Abuse of Authority: Det. John Rivera questioned Aleksander § 87(2)(b)

Allegation I— Abuse of Authority: Det. John Rivera searched Aleksander § 87(2)(b)

Allegation J— Abuse of Authority: Det. John Rivera frisked Aleksander § 87(2)(b)

According to § 87(2)(b)'s statement, after he and § 87(2)(b) were asked to exit the vehicle, Det. Rivera requested that § 87(2)(b) provide him with his license, and he complied. Det. Rivera then requested that he hand him his wallet, and § 87(2)(b) again complied with this request. Det. Rivera opened the wallet and looked at it, though he did not remove anything. Det. Rivera then returned the wallet to § 87(2)(b) and § 87(2)(b) § 87(2)(b) it in his pants pocket. Upon doing so, Det. Rivera proceeded to pat down the outside of § 87(2)(b)'s pants, but did not go into any pockets or remove any items from them.

In both his initial complaint and his sworn statement, § 87(2)(b) testified that he and § 87(2)(b) were asked for their licenses after they were pulled over, and that they subsequently provided them. However, § 87(2)(b) testified that Det. Civil asked for both of their licenses, and did not state in either testimony that Det. Rivera requested § 87(2)(b)'s wallet, that § 87(2)(b) handed Det. Rivera his wallet, or that Det. Rivera searched § 87(2)(b)'s wallet. Furthermore, § 87(2)(b) did not allege in either his initial complaint or his sworn statement that § 87(2)(b) was frisked at any point by any officer. Additionally, § 87(2)(b) testified that he and § 87(2)(b) were instructed to exit the car, and they both complied. He did not indicate that he and § 87(2)(b) were ever separated from each other after exiting the vehicle; therefore, it is reasonable to conclude that if the question, search and frisk occurred, § 87(2)(b) would have witnessed it.

Both Det. Rivera and Det. Civil stated that § 87(2)(b) remained inside the car throughout the duration of the incident, and that he never exited the vehicle at any point. Furthermore, both detectives testified that only § 87(2)(b) exited the vehicle, did so on his own accord, and was immediately told to re-enter the vehicle. Det. Rivera stated that the only interaction he had with § 87(2)(b) was while he was inside his vehicle, and this was corroborated by Det. Civil. Furthermore, Det. Civil did not observe Det. Rivera frisk or search § 87(2)(b) and this was corroborated by Det. Ottomanelli.

§ 87(2)(g)

Allegation K— Abuse of Authority: Det. Mike Civil threatened § 87(2)(b) with the use of force.

Allegation L – Discourtesy: Det. Mike Civil spoke rudely to § 87(2)(b)

According to his statement, § 87(2)(b) exited § 87(2)(b)'s vehicle in order to take a photograph of the Camry while Det. Rivera and Det. Civil were inside issuing the summonses. In response to him exiting the vehicle, Det. Civil said to him, “If you get out the car, I’m going to break your fucking legs”. § 87(2)(b) testified that § 87(2)(b) exited the vehicle, stood by the door, and took photos of the Camry with his cell phone. At this time, Det. Civil got halfway out of the car and said, “Get in the car before I break your fucking legs”. He said this in a raised voice, and § 87(2)(b) immediately complied.

Det. Civil testified that immediately upon approaching § 87(2)(b)'s vehicle, § 87(2)(b) exited and began yelling, “I’m tired of this shit”, and saying that it was the third time he had been stopped that week. Det. Civil told him to remain in his vehicle, and the detectives returned to their car with § 87(2)(b)'s license. As they were in their vehicle, § 87(2)(b) exited his car again and approached the officers. Det. Civil again instructed him to return to his vehicle, stated that it was unsafe and he would not ask him again. At first § 87(2)(b) did not comply, but eventually returned to his vehicle after Det. Civil approached him and took his license. Det. Civil then returned to the police car, wrote § 87(2)(b) and § 87(2)(b) summonses for § 87(2)(b), as well as an additional summons for § 87(2)(b) due to § 87(2)(b)'s behavior. After Det. Civil gave § 87(2)(b) the summonses, he replied, “This is bullshit”.

In his statement, Det. Rivera also testified that § 87(2)(b) was irate and exited the vehicle without being instructed to do so, and that Det. Civil told him to calm down and return to the car. Det. Civil testified that he never told § 87(2)(b) that he would “break his fucking legs”, and never used profanity with him. Det. Rivera testified that he never heard Det. Civil say to a civilian that he would “break his fucking legs”, and

that Det. Civil's demeanor was calm throughout the incident. Furthermore, he stated that no profanity was used whatsoever during the incident.

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

Pod 16

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date